

REMARKS

Claims 1-6 are pending in the application, with Claims 1 and 4 as independent claims. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,990,333 B2 to Andrew et al.

Pursuant to 37 C.F.R. §1.116 and 37 C.F.R. §41.33(d), please enter the enclosed §1.131 Declaration. Applicant respectfully submits that this Declaration is necessary as it provides additional information to establish diligence during from before the reference date of Andrew et al. until constructive reduction to practice at the filing date of Korean Patent Application No. 7493-2003, to which the present Application claims priority. This Declaration was not earlier presented because applicant believed that the prior responses placed this application in condition for allowance, for at least the reasons set forth in those responses. Accordingly, entry of the present Declaration, as an earnest attempt to advance prosecution and overcome all rejections under appeal, is requested under 37 C.F.R. §1.116.

It is respectfully noted that the Examiner relies on Andrew et al. to reject all of the claims. The earliest date that can be relied upon with respect to Andrew et al. is November 27, 2002, the Application filing date. Submitted herewith is a new Declaration under 37 C.F.R. §1.131, which includes an invention disclosure and an English translation thereof, and in which further information has been provided establishing reduction to practice of the invention described in the present application prior to November 27, 2002 coupled with diligence from before November 27, 2002 until February 6, 2003, the filing date of Korean Patent Application No. 7493-2003 to which the present Application claims priority.

Establishing conception requires demonstrating that "the invention was made

sufficiently clear to enable one skilled in the art to reduce it to practice without the exercise of excessive experimentation or the exercise of inventive skill." (Hiatt v. Ziegler, 179 U.S.P.Q. 757, 763 (Bd. Pat Inter. 1973)). At the very least, pages 4-5 of the English Translation of the Invention Disclosure Document (Exhibit B in the Rule 1.131 Declaration), which was completed at least before October 11, 2002, provides a detailed description of the present invention that would enable one skilled in the art to reduce the invention to practice without excessive experimentation or excessive skill. Therefore, conception of the invention prior to the effective date of Andrew et al. has been established.

Regarding the diligence requirement, the enclosed §1.131 Declaration and Information Disclosure Document provide information regarding steps taken to prepare Korean Patent Application No. 7493-2003, to which the present Application claims priority, for filing. We further note that, as recited in MPEP 2138.06, "The diligence of attorney in preparing and filing patent application inures to the benefit of the inventor," and, "Reasonable diligence is all that is required of the attorney." (citing *Haskell v. Coleburne*, 671 F.2d 1362, 213 USPQ 192, 195 (CCPA 1982) and *Bey v. Kollonitsch*, 866 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986)). These steps establish diligence from before November 27, 2002, the effective date of Andrew et al., until February 6, 2003, the filing date of Korean Patent Application No. 7493-2003 and the date of constructive reduction to practice.

Therefore, the documents submitted establish conception prior the reference date Andrew et al. coupled with diligence from prior to the effective date of Andrew et al. until reduction to practice. Based on at least the foregoing, withdrawal of Andrew et al. as a reference and withdrawal of any and all rejections based thereon is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-6 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



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